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S. AMANDA MARSHALL, OSB #95347

United States Attorney

District of Oregon

JANE SHOEMAKER

Assistant United States Attorney

Jane.Shoemaker@usdoj.gov

HANNAH HORSLEY

Assistant United States Attorney

Hannah.Horsley@usdoj.gov

1000 S.W. Third Ave., Suite 600

Portland, OR 97204-2902

Telephone: (503) 727-1000

Facsimile: (503) 717-1117

Attorneys for United States of America

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

Case No. 3:12-CR-00431-HA

UNITED STATES OF AMERICA

v.

**DAVID JOSEPH PEDERSEN,
a/k/a "JOEY" PEDERSEN, and
HOLLY ANN GRIGSBY,**

Defendants.

**GOVERNMENT'S SUPPLEMENTAL
RESPONSE TO DEFENDANT
PEDERSEN'S MOTION FOR
RECONSIDERATION OF THE
ORDERS SEALING AND
PRECLUDING DISCLOSURE OF THE
GOVERNMENT'S NOTICE
REGARDING CONDUCT OF
INVESTIGATING AGENTS**

Hearing: February 7, 2014

FILED UNDER SEAL 

The United States of America, by S. Amanda Marshall, United States Attorney for the
District of Oregon, through Jane Shoemaker and Hannah Horsley, Assistant United States



Attorneys, files this supplemental response to defendant Pedersen's motion to unseal and allow immediate public disclosure of the government's Sealed Notice [327] of December 19, 2013 that, as a result of certain discoveries that had been made pursuant to its discovery audit, Oregon State Police Detective Dave Steele was under investigation, had been placed on administrative leave, and had been removed from the prosecution team for this case. Defendant Gribsby joined in that motion. This supplemental response is filed under seal, consistent with the Court's prior Order to seal the motions on this matter.

The government originally opposed the motion as premature because the Salem Police Department and the Marion County District Attorney's Office had initiated an independent criminal investigation that was still underway and could be compromised as a result of premature disclosure. That investigation is now concluded, and the government does not oppose defendant's motion to unseal and allow disclosure of the Notice at this time.


A redacted version of the Notice will be submitted to the Court for filing, consistent with the Court's January 17, 2014 Sealed Minutes of Proceedings [353].

Dated this 5th day of February 2014.

Respectfully submitted,

S. AMANDA MARSHALL
United States Attorney


JANE SHOEMAKER
Assistant United States Attorney


HANNAH HORSLEY
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the GOVERNMENT'S SUPPLEMENTAL RESPONSE TO DEFENDANT PEDERSEN'S MOTION FOR RECONSIDERATION OF THE ORDERS SEALING AND PRECLUDING DISCLOSURE OF THE GOVERNMENT'S NOTICE REGARDING CONDUCT OF INVESTIGATING AGENTS was sent on February 5, 2014:

Via mail and email:

Laurie Bender
Attorney at Law
735 SW 1st Ave, 2nd Floor
Portland, OR 97204
lbenderlaw@aol.com

Kathleen M. Correll
Correll & Associates
P.O. Box 13351
Portland, OR 97213
kmc@kmcorrellattny.com

C. Renee Manes
Assistant Federal Public Defender
101 SW Main Street, Suite 1700
Portland, OR 97204
Renee_Manes@fd.org

Richard L. Wolf
Attorney at Law
12940 NW Marina Way
Portland, OR 97231-2312
richardlwolf@att.net

Via mail:

David Joseph Pedersen
SWIS #668-888
Multnomah County Inverness Jail
11540 NE Inverness Drive
Portland, OR 97220

/s/ Emily Jensen
Emily Jensen
Legal Assistant

S. AMANDA MARSHALL, OSB #95347
United States Attorney
District of Oregon
JANE SHOEMAKER
Assistant United States Attorney
Jane.Shoemaker@usdoj.gov
HANNAH HORSLEY
Assistant United States Attorney
Hannah.Horsley@usdoj.gov
1000 S.W. Third Ave., Suite 600
Portland, OR 97204-2902
Telephone: (503) 727-1000
Facsimile: (503) 717-1117
Attorneys for United States of America

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Certified to be a true and correct
copy of original filed in this District
Dated DEC 19 2013
Mary L. Moran, Clerk of Court
US District Court of Oregon
By Deputy Clerk [Signature]
Pages 1 through 4



UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA

Case No. 3:12-CR-00431-HA

v.

DAVID JOSEPH PEDERSEN,
a/k/a "JOEY" PEDERSEN, and
HOLLY ANN GRIGSBY,

NOTICE

Defendants.

UNDER SEAL

The United States of America, by S. Amanda Marshall, United States Attorney for the District of Oregon, through Jane Shoemaker and Hannah Horsley, Assistant United States Attorneys, hereby files this Notice under seal, to notify the court and defendants about recent developments in this case prompted by our discovery audit.

In October, the government began conducting an audit of our discovery production in this case to determine whether the Oregon State Police (OSP), the Federal Bureau of Investigation (FBI) or other law enforcement agencies possess discoverable material that has not yet been produced in discovery. At the same time, FBI Special Agent Frank Heckendorn replaced OSP Detective Dave Steele as the lead case agent. As a result of that audit, we have already produced several additional volumes of discovery, and the audit is still ongoing.

Pursuant to the audit, on the afternoon of Friday, December 13, 2013, the Supervising Automated Litigation Support Coordinator for the U.S. Attorney's Office, Susan Cooke, saw a letter on Detective Steele's desk at OSP from [REDACTED], who is Joey Pedersen's [REDACTED]. Ms. Cooke transcribed the letter, which reads:

11/29/11

Hi Detective Steele,

Here are the pictures you requested. I'm sorry it took me so long to get them to you. My main worry is that whomever gets these pictures will use them to paint my [REDACTED] in a good way. I just don't want people to use them to gain sympathy for Joe. My new phone number is [REDACTED]. Feel free to call anytime with questions or whatever.

Thank you, [REDACTED]

Ms. Cooke immediately notified AUSA Hannah Horsley of the letter because, among other things, it is responsive to Pedersen's Motion to Compel [222], and the Court's Order granting the Motion to Compel [291].

The government immediately notified an OSP Lieutenant about the letter and other items found during the course of the audit, and OSP suspended the audit and closed off the room on the evening of December 13, 2013. Ms. Cooke had not located the pictures or an envelope

associated with [REDACTED]'s letter prior to the audit being suspended by OSP, but she will resume the audit as soon as possible and will continue to search for those items.

OSP is now conducting an investigation, and it placed Detective Steele on administrative leave pending the investigation on the evening of December 16, 2013. The U.S. Attorney's Office has removed both Detective Steele and OSP Analyst Kim Dempsey from the prosecution team for this case.

The government will continue to conduct our audit as expeditiously as possible, and will continue to provide additional discovery as it becomes available. We will also provide additional notice to the Court as it becomes available and at the conclusion of the investigation.

This Notice, the government's Motion for Order Precluding Notice and the proposed Order Precluding Notice are filed under seal due to the pending investigation and the sensitive nature of the information contained in this Notice. The government respectfully requests that the Court enter the proposed Order Precluding Notice, preventing the defendants and all members of the defense teams from disclosing this Notice, the Motion for Order Precluding Notice, and the proposed Order Precluding Notice, or the contents of any of those documents in any form, to any

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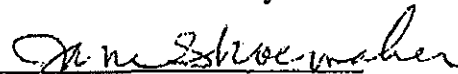
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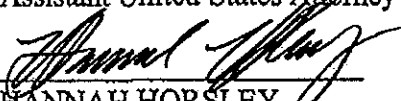
third party unless and until further order of the Court. The government will, however, provide a copy of this Notice to the Attorney General's Capital Case Review Committee today.

Dated this 18th day of December 2013.

Respectfully submitted,

S. AMANDA MARSHALL
United States Attorney


JANE SHOEMAKER
Assistant United States Attorney


HANNAH HORSLEY
Assistant United States Attorney